

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

MANUEL VERA BETANCOURT,)	
Petitioner,)	
)	
v.)	C.A. No. 04-11876-RCL
)	
JOHN ASHCROFT, et al.,)	
Respondents.)	

MEMORANDUM AND ORDER

Now before the Court is petitioner's pro se Motion to Add Another Ground to His Writ of Habeas Corpus. See Docket No. 12. It is unclear whether petitioner provided a copy of this motion to the respondent in this case since no certificate of service was attached to the motion.

Because a habeas proceeding is civil in nature, the Federal Rules of Civil Procedure apply. See Browser v. Director, 434 U.S. 257, 269, 98 S. Ct. 556, 54 L. Ed. 2d 521 (1978). Rule 5(a) of the Federal Rules of Civil Procedure requires petitioner to serve upon the respondent or, if an appearance is entered by counsel, upon counsel, a copy of every pleading, motion or other paper he files with the court. See Fed. R. Civ. P. 5(a). Local Rule 7.1(C) requires service of motions "unless the moving party indicates in writing on the fact of the motion that ex parte consideration is requested." District of Massachusetts Local Rule 7.1(C).

Here, petitioner failed to attach a certification that he served his motion on Damian W. Wilmot, counsel for respondents. "Serve" means to mail a copy of his motion to attorney Wilmot at the United States Attorney's Office, John Joseph Moakley United States Courthouse, Suite 9200, 1 Courthouse Way, Boston, MA 02210. Proof that service has been made must be provided by a certificate of service. In the future, any time Mr. Betancourt writes to the Court, he must certify, at the end of the

document, that he has served copies on opposing counsel.¹ If any pleading or other paper submitted for filing does not include a certificate of service upon counsel for the opposing party, it may be disregarded by the Court.

ORDER

Accordingly, plaintiff's Motion is denied without prejudice for failure to comply with the Local Rules and without prejudice to renewal.

SO ORDERED.

Dated at Boston, Massachusetts, this 14th day of March, 2005.

/s/ Reginald C. Lindsay
REGINALD C. LINDSAY
UNITED STATES DISTRICT JUDGE

¹ The certificate of service may be in the following form:

I hereby certify that a true copy of the above document (name of pleading or other paper) was served upon the attorney of record for the other party by mail on (date).
(Signature).